

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**AMBER BAILES and
JACKIE BAILES,**

Plaintiffs,

v.

CIVIL ACTION NO. 2:07-00494

HORTON HOMES, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter came before the court upon the agreement of the plaintiffs, Amber and Jackie Bailes, by counsel Harley E. Stollings, and defendant, Horton Homes, Inc., by counsel Marc H. Bardack and Shawn R. Romano, to remand this matter to the Circuit Court of Nicholas County, West Virginia, where it originated.

(Doc. No. 12.)

The court finds that this matter was removed to this court by defendant on the basis of diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). (Doc. No. 1.) Having been informed, however, of the parties' joint stipulation that the amount in controversy does not exceed \$75,000.00, the court finds that it lacks subject matter jurisdiction to adjudicate this civil action.

For the aforementioned reasons, the court hereby **GRANTS** plaintiffs' Motion to Remand (Doc. No. 11), **REMANDS** this action to the Circuit Court of Nicholas County, and **DIRECTS** the Clerk to

remove this matter from the court's active docket. Because the court lacks jurisdiction over this action, the court does not reach plaintiffs' Motion to Amend Complaint (Doc. No. 10).

The Clerk is further directed to send a copy of this Memorandum Opinion and Order to all counsel of record, and to forward a certified copy of the same to the Clerk of the Circuit Court of Nicholas County.

It is **SO ORDERED** this 4th day of October, 2007.

ENTER:

David A. Faber

David A. Faber
United States District Judge